Cash Assistance Program for Immigrants (CAPI) Program Guide (PG) Letter No. 12

April 23, 2008

Subject

DEPARTMENT OF HOMELAND SECURITY (DHS) INTERIM FINAL RULE ON NEW CLASSIFICATION FOR VICTIMS OF CRIMINAL ACTIVITY; ELIGIBILITY FOR "U" NONIMMGRANT STATUS

Effective date

October 17, 2007

Reference

- All-County Letters 06-60 and 08-15
- CAPI PG Letter No. 8
- Department of Social Services Clarification

Purpose

The purpose of this CAPI PG Letter is to provide:

- instructions for the treatment of non-citizen victims of criminal activity who are eligible for U Visa status; and
- clarification on the treatment of T Visa holders.

Background

CAPI PG Letter No. 8 introduced a new program that provides eligible, non-citizen victims of human trafficking and victims of domestic violence or other serious crimes benefits equivalent to those available to refugees.

The Trafficking Victims Protection Act (TVPA) of 2000 created U Nonimmigrant Status for certain victims of criminal activity who have:

- suffered substantial mental or physical abuse;
- information regarding the criminal activity; and
- been helpful, are being helpful, or who are likely to be helpful in assisting law enforcement in the investigation and prosecution of the crime(s).

As regulations governing U Visas were not available at TVPA implementation, an administrative remedy called U Visa Interim Relief was created to enable victims a stay of deportation and work authorization.

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Changes

This letter provides an update on the status of the Interim Final Rule recently filed by DHS, United States Citizenship and Immigration Services (CIS) as it pertains to eligibility for benefits and services for victims of serious crime.

An Interim Final Rule regarding New Classification for Victims of Criminal Activity and Eligibility for U Nonimmigrant Status was issued effective October 17, 2007.

New U Visa Cases

To be eligible as a nonimmigrant victim of serious crime, Senate Bill (SB) 1569 requires that an applicant had filed a request for a U Visa. At the time of implementation, since U Visas were not yet available, an applicant could provide evidence that a request for U Visa Interim Relief had been submitted. Now that an Interim Final Rule has been issued, CIS no longer accepts U Visa Interim Relief applications filed after October 17, 2007.

New applicants for benefits as a victim of serious crime must now present evidence that they have filed for a U Visa (or have obtained one) if they do not have proof that they filed for U Visa Interim Relief before October 17, 2007. This evidence can include:

- A Notice of Action, Form I-797, approving U Visa Interim Relief based on a request filed prior to October 17, 2007
- A confirmation receipt or letter from CIS verifying that a request for U
 Visa Interim Relief was filed prior to October 17, 2007
- A Form I-797 which serves as a fee receipt for an employment authorization request based upon a request for U Visa Interim Relief filed prior to October 17, 2007
- A confirmation receipt or letter from CIS verifying that a Petition for U Nonimmigrant Status, Form I-918, has been filed.
- A Form I-797 approving a U Visa
- A Form I-797 which serves as a fee receipt for an employment authorization request based on a U Visa application
- A completed copy of Form I-918. If the only available evidence is the completed copy of the I-918, the applicant must provide, within a reasonable time, verification from CIS that it was submitted.
- An Employment Authorization Document (EAD) issued under Category "A19" or "A20" for an approved U Visa petitioner.

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Existing U Visa Interim Relief Cases

Federal regulations stipulate that after the effective date of the issuance of the Interim Final Rule, CIS will not consider initial requests for interim relief. CIS has indicated that petitioners who have previously been granted interim relief and have filed a Form I-918 for a U Visa will have their interim relief extended until CIS completes its evaluation of the application. Therefore, cases determined eligible based on a request for U Visa Interim Relief prior to October 17, 2007 may remain eligible if a U Visa application has been filed (or a U Visa has been issued) or until a denial of interim relief has been issued.

Discussing New Rule

Workers are cautioned to <u>not</u> provide advice that may be legal in nature when discussing this new rule with recipients. Workers may suggest to recipients that they consult an immigration attorney, a legal aid representative, or other appropriate party for assistance in applying for a U Visa or for additional information regarding the Interim Final Rule.

T Visa Clarification

An individual with a T Visa may be potentially eligible for State Supplemental Insurance (SSI), and should be referred to apply for SSI. CAPI eligibility would depend on what the Social Security Administration (SSA) says about their eligibility.

Forms impact

None.

Quality Assurance impact

The California Department of Social Services has not specified a Quality Assurance requirement for CAPI and appeals are handled through the usual State hearing process.

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Changes

The table below shows the changes to the CAPI PG.

Section	Changes
99-101, Table of Contents	Changed page numbering to align with the PG.
99-101	T Visa clarification added.
	U Visa information added.
	Re-numbered later sections.

Filing instructions

The table below shows how to file the CAPI PG material.

Action	Pages
Remove	99-101-TOC-i
	99-101-5 through 99-101-19
Replace	99-101-TOC-i
	99-101-5 through 99-101-19

Manager approval

ORIGINAL SIGNED BY:

Dann Crawford, Assistant Deputy Director Medi-Cal, General Relief, and CAPI Program Administration Strategic Planning & Operational Support Division